

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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Federal Communications Commission  
Office of Secretary

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In the Matter of )

Implementation of the Pay Telephone )  
Reclassification and Compensation )  
Provisions of the Telecommunications )  
Act of 1996 )

CC Docket No. 96-128

REPLY COMMENTS OF SPRINT

Although Sprint Corporation did not file comments on the above-captioned Petition for Waiver filed by Telco Communications Group, it does wish to respond briefly to certain arguments of other parties that commented on that petition.

Telco filed its petition for a waiver to pay its interim compensation on a per-call basis, rather than on the basis of its share of toll revenues, because its payment obligations, calculated on the latter basis, are grossly disproportionate to the number of payphone-originated calls handled on its network (Telco Petition at 4-6). Ameritech (at 3) opposes the waiver on the grounds that it would be unfair to reduce the payphone service providers' (PSPs') compensation by the amount that Telco would save by being allowed to make its interim payments on a per-call basis. In this regard, Ameritech notes (at 4) that Telco is not seeking to require other IXC's to make up for its reduced payments. On the other hand, AT&T (at 3-4) interprets the petition as an effort by Telco to shift its payment obligations to other IXC's, and opposes (at 5) the waiver if additional costs would thereby be imposed on other IXC's. APCC, while opposing the waiver, argues (at 8, 13) that if the waiver is nonetheless granted, the Commission should redetermine the interim pro-rata shares of other IXC's so as to avoid any shortfall to PSPs.

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Sprint agrees with Ameritech that nothing in Telco's petition can be fairly construed as suggesting that if its requested waiver is granted, it intended that the interim payment obligations of other IXC's be increased if its waiver is granted.<sup>1</sup> If the Commission is inclined to grant the waiver, it would be procedurally improper to simultaneously adjust upward the payment obligations of other IXC's. The compensation obligations are akin to a rate prescription, and the Commission cannot revise such a prescription without giving affected parties notice and opportunity for comment.<sup>2</sup> No notice has been given that the Commission contemplates such a change.

Moreover, any upward readjustment of the payments of the other IXC's that are required to pay interim compensation would be unfair to those IXC's. First, as AT&T points out (at 2), those IXC's already are paying more, collectively, than their fair share of the interim payment obligations because of the Commission's arbitrary exclusion of local exchange carriers and smaller IXC's from the interim compensation obligation.

Second, the methodology used by the Commission to calculate interim compensation undoubtedly results in overcompensation to the PSP industry as a whole. As detailed in ¶¶124-25 of the Report and Order in this docket (FCC 96-388, released September 20, 1996), the Commission arrived at the per-line compensation through multiplying its per-call rate of \$.35 times an estimated average of 131 compensable calls

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<sup>1</sup> Although, as noted above, AT&T construed Telco's petition differently, it does not refer to any specific language in Telco's petition that would support its inference.

<sup>2</sup> Under the Administrative Procedure Act, rate prescription constitutes rulemaking, for which notice and comment are required. See 5 U.S.C. Sections 551(4)-(5) and 553.

per payphone per month, based on call data submitted by various PSPs. As Sprint will explain, each of these components overstates the amounts due to PSPs.

Because the estimates of the number of compensable calls came from payphone providers, they likely overstate the number of compensable calls as defined by the Commission for purposes of per-call compensation. Paragraph 63 of the Report and Order defines completed calls as those answered by the called party, rather than those merely reaching an intermediate platform (such as a calling card, operator services, or prepaid card platform). However, no PSP can determine, for sure, whether any “platform” call is ultimately completed. With the exception of APCC, none of the parties submitting the data on which the Commission relied (see Report and Order, ¶124) represented that they even attempted to remove calls completed to a platform, but not to an end user, from their call estimates. And although APCC attempted to do so, by excluding access code calls or 0+ calls where the elapsed time was 60 seconds or less (see APCC Comments, July 1, 1996, n.3 at 6), this algorithm is imperfect. Calls utilizing a live operator can easily consume 60 seconds in the platform before the called party answers or the call attempt is abandoned because of a busy signal or no answer. This is particularly the case where the caller first attempts to complete the call automatically but, for various reasons, the call “times out” to a live operator. Nor did any other party claim to have matched APCC’s effort (APCC Comments, Attach. 1) to research prepaid card access numbers – numbers that are not nearly as widely publicized as operator service access codes – and treat them as access codes, rather than as subscriber 800 numbers. Thus, even if they had used an algorithm, such as that used by APCC, to separate out incompleting access code calls, they would have failed to distinguish prepaid card

platform calls from subscriber 800 calls. As a result, any prepaid card call reaching a platform would have been counted by these other PSPs as “completed,” whether or not the call was completed to the intended party. The number of calls erroneously treated as “completed” in the data used by the Commission to compute the interim per-line charge is likely to far outweigh the compensation amount Telco seeks to avoid.<sup>3</sup>

The other component of interim compensation – the rate of \$.35 per call – is far in excess of the PSPs’ costs, as Sprint and other IXC’s have previously contended. In this regard, Sprint has received reports from field sales personnel that, as Sprint predicted,<sup>4</sup> many PSPs are beginning to offer a portion of their compensation to premises owners in the form of increased commissions. This is yet further evidence that the mandated compensation is excessive in relation to the costs of providing payphone service.

In raising these points, Sprint is not attempting to reargue the merits of the Commission’s earlier determinations about the level of compensation. That issue is now in the hands of the court.<sup>5</sup> Rather, Sprint is merely pointing out that if the Commission grants Telco’s requested waiver, it is not self-evident that PSPs would be shortchanged.

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<sup>3</sup> Telco’s payment obligation of \$.1467954 per line per month (see Further Errata, DA 96-1666, released October 8, 1996) represents compensation for less than one-half of a call.


<sup>4</sup> See Sprint’s October 21, 1996 Petition for Reconsideration at 3.

<sup>5</sup> Illinois Public Telecommunications Ass’n, et al. v. FCC, CADC No. 96-1394, argued May 13, 1997.

Thus, while Sprint continues to take no position on whether a waiver should be granted to Telco, there is no basis for increasing the payment obligations of other IXC's if a waiver is granted.

Respectfully submitted,

SPRINT CORPORATION

A handwritten signature in dark ink, appearing to read "Leon M. Kestenbaum", written over a horizontal line.

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June 13, 1997

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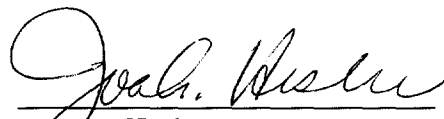
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